

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

United States of America)	
)	
v.)	04-10357
)	
Rashiek Cannon)	

AMENDED MOTION TO FILE NOTICE OF APPEAL LATE

Now comes counsel in the above-captioned case and requests that this court permit the defendant to file his Notice of Appeal late.

As reason therefore, counsel says that after the defendant was sentenced on October 30, 2007 counsel did not have time to consult with the defendant about a possible appeal prior to the marshal's whisking the defendant away.

On October 31, 2007, counsel sent a letter to the defendant at the Plymouth House of Correction requesting guidance as to whether counsel should file a Notice of Appeal. The defendant did not respond until December 5, 2007 because he was in lock down at the House of Correction

and was not permitted to respond. On December 5, 2007, he informed counsel that he wished to proceed with an appeal.

Counsel filed the notice of appeal on December 7, 2007. Federal Rules of Appellate Procedure Rule 4(b)(1)(A) require a defendant to file a notice of appeal within ten days of the entry of judgment. In the present case, the filing deadline was November 9, 2006. However, Rule 4(b)(4) permits the district court to extend that time by thirty days upon a finding of excusable neglect or good cause.

The defendant submits that he has shown good cause for filing his appeal 28 days after November 9, 2006 because he was not able to communicate with his attorney from his sentencing date until December 5, 2007.

The defendant requests that the court accept the late filing of his appeal.

For the defendant,

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